



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 9535-08
18 August 2009

[REDACTED]

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This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 August 2009. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

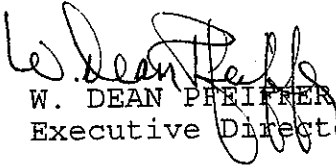
You enlisted in the Navy on 7 October 1943 at age 17. You served without disciplinary infraction until 4 September 1945, when you were convicted by summary court-martial (SCM) of a 21 day period of unauthorized absence (UA). About a month later, on 16 November 1945, you were convicted by general court-martial (GCM) of a 16 day period of UA. You were sentenced to confinement for eight months and a bad conduct discharge (BCD). However, on 9 February 1946, you were placed on probation for six months and returned to duty. Nonetheless, on 14 March 1946, you received captain's mast (CM) for a nine day period of UA and your period of probation was terminated.

On 27 May 1946 you waived your right to appear before a clemency board and requested immediate execution of the discharge. Subsequently, the BCD was approved at all levels of review and on 3 July 1946 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, desire to upgrade your discharge, and the passage of time. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your BCD because of the seriousness of your repetitive and lengthy periods of UA, which resulted in CM, two court-martial convictions, and the BCD. Further, the Board noted that you were sentenced to a BCD but it was suspended, thus giving you the opportunity to earn a better characterization of service. However, you failed to do so and committed further offenses. Finally, no discharge is automatically upgraded due solely to an individual's good post service conduct or the passage of time. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director